

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, THE
EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO PUBLIC
BUILDINGS AUTHORITY,

Debtors.

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**MODIFICATIONS TO MODIFIED EIGHTH AMENDED TITLE III JOINT PLAN OF
ADJUSTMENT OF THE COMMONWEALTH OF PUERTO RICO, ET AL.**

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*Attorneys for the Financial Oversight and Management Board
as Representative for the Debtors in their Title III Cases*

Dated: November 12, 2021

The Financial Oversight and Management Board for Puerto Rico, as Title III representative of the Commonwealth of Puerto Rico, The Employees Retired System of the Government of the Commonwealth of Puerto Rico, and the Puerto Rico Public Buildings Authority pursuant to Section 315(b) of the *Puerto Rico Oversight, Management and Economic Stability Act*, hereby proposes the following modifications to the Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al., dated November 7, 2021 [Case No. 17-03283-LTS, ECF No. 19114] (the “Plan”):

1. **Definitions:** Unless otherwise defined herein capitalized terms used herein shall have the meanings ascribed thereto in the Plan.

2. **Pension Reserve Trust:** Section 1.389 of the Plan, entitled “Pension Reserve Trust”, is hereby amended by adding the words “and which shall not be subject to taxation by the Commonwealth” prior to the period at the conclusion thereof.

3. **Projected Fiscal Plan Surplus:** Section 1.413 of the Plan, entitled “Projected Fiscal Plan Surplus”, shall be amended by deleting the definition set forth therein and inserting the following in lieu thereof:

“1.413 **Projected Fiscal Plan Surplus:** The projected primary unrestricted Fiscal Plan Surplus as set forth in the Fiscal Plan as in effect as of the Effective Date minus the sum of (a) projected CVI payments for such FY and (b) the positive difference, if any, of projected Non-Own Source Revenues minus actual Non-Own Source Revenues for such FY; provided, however, that, in the event of (i) a federally-declared natural disaster, or (ii) a federally – declared pandemic other than the current Covid-19 pandemic in any FY, upon the filing of a motion by the Government of the Commonwealth of Puerto Rico, and upon notice and a hearing, “Projected Fiscal Plan Surplus” shall be reduced by the amount of any actual reduction in revenues for such FY as compared to projected revenues for such FY as set forth in the Fiscal Plan in effect on the Effective Date, whether or not the council acting on behalf of the Pension Reserve Trust agrees to such reduction, in the event that the Title III Court determines, by entry of a Final Order, that the amount of such reduction is directly attributable to such natural disaster or pandemic.”

4. **Related Persons:** Section 1.420 of the Plan, entitled “Related Persons”, is hereby amended by deleting the words “claiming by or through any of them, each in its respective capacity as such” in clause (b) thereof and inserting the words “acting for or on behalf of any of them, including their respective counsel and advisors, in each case, solely to the extent acting in such capacity” in lieu thereof.

5. **Tax Credit Claims:** Section 1.479 of the Plan, entitled “Tax Credit Claims”, is hereby amended by deleting the definition set forth therein and inserting the following in lieu thereof:

“1.479 **Tax Credit Claims:** Collectively, Claims or rights, other than Energy Incentive Claims and Claims related to the payment of personal income taxes,

arising under the Puerto Rico Internal Revenue Code of 2011, as amended, or on economic incentive law, concession, or decree, in each case, resulting in corporate income tax credits, deductions, exemptions, or carry forwards.”

6. **Underwriter Actions:** Section 1.490 of the Plan, entitled “Underwriter Actions”, is hereby amended to delete the words “named in such litigations by or on behalf of the plaintiffs therein concerning the claims or causes of action asserted therein” in the third and fourth lines thereof and to insert the words “concerning or relating to indebtedness or bonds issued by a Debtor, any of the Reorganized Debtors, PREPA, HTA or any other agency or instrumentality of the Commonwealth named in such litigations” in lieu thereof.

7. **Executory Contracts and Unexpired Leases:** Section 76.1 of the Plan, entitled “Rejection or Assumption of Remaining Executory Contracts and Unexpired Leases”, is hereby amended by deleting the first sentence therein and inserting the following in lieu thereof:

“Pursuant to sections 365(b)(2) of the Bankruptcy Code, applicable to the Title III Case pursuant to Section 301 of PROMESA, and subject to the provisions of Section 76.5 and 76.7 hereof, all Executory Contracts and Unexpired Leases that exist between the Debtors and any Entity, and which have not expired by their own terms on or prior to the Effective Date, shall be rejected by the Debtors as of the Effective Date, except for any Executory Contract and Unexpired Lease (a) that has been assumed and assigned or rejected pursuant to an order of the Title III Court entered prior to the Effective Date, (b) that is specifically designated as a contract or lease to be assumed on the schedules to the Plan Supplement, (c) that has been registered with the Office of the Comptroller of Puerto Rico, (d) that has been exempt from registration with the Office of the Comptroller of Puerto Rico Pursuant to 2 L.P.R.A § 97 and regulations promulgated pursuant thereto, (e) that has been approved by the Oversight Board or authorized by the Title III Court, unless specifically designated a contract to be rejected in the Plan Supplement, (f) with the United States, or any of its agencies, departments or agents or pursuant to any federal program, (g) that is an incentive agreement between the Government of the Commonwealth of Puerto Rico and rum producers with respect to rum excise tax “Cover Over” revenues, or (h) by or between any Commonwealth of Puerto Rico agencies, departments, municipalities, public corporations, or instrumentalities (other than leases to which PBA is a party); provided, however, that the Debtors reserve the right to amend, on or prior to the Effective Date, such schedules to delete any Executory Contract and Unexpired Lease therefrom or add any Executory Contract and Unexpired Lease thereto, in which event such Executory Contract(s) and Unexpired Lease(s) shall be deemed to be, as the case may be, either rejected, assumed, or assumed and assigned as of the Effective Date.”

8. Unless otherwise modified herein, the Plan is not amended, modified or supplemented.

Dated: San Juan, Puerto Rico
November 12, 2021

THE COMMONWEALTH OF PUERTO
RICO, by and through the Financial Oversight
and Management Board for Puerto Rico as its
representative

By: /s/ Natalie A. Jaresko
Name: Natalie A. Jaresko
Title: Executive Director

EMPLOYEES RETIREMENT SYSTEM OF
THE GOVERNMENT OF THE
COMMONWEALTH OF PUERTO RICO, by
and through the Financial Oversight and
Management Board for Puerto Rico as its
representative

By: /s/ Natalie A. Jaresko
Name: Natalie A. Jaresko
Title: Executive Director

PUERTO RICO HIGHWAYS AND
TRANSPORTATION AUTHORITY, by and
through the Financial Oversight and
Management Board for Puerto Rico as its
representative

By: /s/ Natalie A. Jaresko
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